

## **New Employer Mandates & Refundable Tax Credits in *Families First Coronavirus Response Act***

### **Required Sick Leave**

#### *Covered Employees:*

The Act requires employers with fewer than 500 employees to provide two weeks of paid sick leave to employees (special rules apply to part-time employees) who are unable to work for the following reasons related to COVID-19:

- (1) The employee is subject to a Federal, State, or local quarantine or isolation order related to COVID-19.
- (2) The employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19.
- (3) The employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis.
- (4) The employee is caring for an individual who is subject to an order as described in subparagraph (1) or has been advised as described in paragraph (2).
- (5) The employee is caring for a son or daughter of such employee if the school or place of care of the son or daughter has been closed, or the childcare provider of such son or daughter is unavailable, due to COVID-19 precautions.
- (6) The employee is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services in consultation with the Secretary of the Treasury and the Secretary of Labor.

Notably, the leave provided in the Act must be sequenced before other leave that may be available to the employee. Additionally, the Department of Labor can exempt businesses with fewer than 50 employees from qualifying reason 5 if the leave requirement would jeopardize the viability of a business.

#### *Amount of Required Compensation & Refundable Tax Credit*

Employers must pay employees 100 percent of wages covered by circumstances 1-3 up to \$511 per day and \$5,110 in the aggregate. Employees covered by circumstances 4-6 must be paid two-thirds of wages up to \$200 per day or \$2,000 in the aggregate. The Act provides employers a 100 percent refundable tax credit against payroll taxes to offset the cost of these wages. Special rules apply to self-employed individuals.

### **Expanded Family and Medical Leave to Care for Children Under 18**

#### *Covered Employees:*

The Act expands the Family and Medical Leave Act (FMLA) to require employers with fewer than 500 employees to provide leave to an employee unable to work because such an employee is caring for a child whose school or place of child care has closed due to COVID-19. Paid FMLA leave must be available for 10 weeks.

The first 10 days of leave available under the FMLA provision may be unpaid. However, an employee may use any accrued leave (e.g., vacation, personal, and medical leave), as well as the paid sick leave required above, to cover this initial period. The remaining 10 weeks of FMLA leave must be paid.

The Department of Labor can exempt businesses with fewer than 50 employees if the leave requirement would jeopardize the viability of a business.

#### *Amount of Required Compensation & Refundable Tax Credit*

Employees covered by this provision must be paid two-thirds of wages up to \$200 per day or \$10,000 in the aggregate. The Act provides employers a 100 percent refundable tax credit against payroll taxes to offset the cost of these wages. Special rules apply to self-employed individuals.

#### *Restoring Position of Employee:*

The FMLA requires that employees be restored to their position or an equivalent position with equivalent pay and benefits. Employers with fewer than 25 employees are not required to restore the employee to their position upon completion of emergency FMLA leave if: (1) the position does not exist because of economic conditions caused by COVID-19; (2) the employer makes reasonable efforts to restore the employee to an equivalent position; and (3) an equivalent position does not become available in the following year.